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Eisenhower Hopeful, Dulles Sour, On The Way to That Meeting at The Summit

Ike's Secretary of State — or McCarthy's?

In Washington last week, as in San Francisco the week before, there was a striking divergence in tone between the President and his Secretary of State. The President was hopeful, his Secretary of State astringent, about the outlook for Geneva. Mr. Eisenhower said the chances of solid progress were better than he thought they were two months ago; Mr. Dulles left the impression that the chances had been rendered less promising by a Russian "loss of interest" in German reunification. The President said flatly that he was sure the plane incident over the Bering strait was a local matter, and not a deliberate act of policy; he even mentioned that the weather was bad and therefore visibility poor at the time of the shooting. His Secretary of State issued a press release saying, "So far, however, we doubt that that [shooting] represents a *considered* policy on the part of the Soviet Union." The word italicized illustrates Mr. Dulles's genius for poisonous ambiguity.

Nowhere was the divergence more evident than in the President's response to a question about the plan for a Congressional resolution expressing the hope that the Communist satellite states can achieve freedom. This, always one of Mr. Dulles's fervent themes, elicited a lukewarm response from Mr. Eisenhower. The President would not commit himself; he had said again and again that there could be no real peace until all nations had the right of self-determination, but we were not going to war to free them. This will be a cold douche for Mr. Dulles's East European politicians-in-exile.

Why Go to Geneva?

Were it not for the President's hopeful words next day anyone would assume from the Secretary of State's press conference last Tuesday that there was no point in going to Geneva unless to demonstrate that there is no hope of peace. The list of subjects on which Mr. Dulles sees no chance of agreement is long enough to cover any feasible agenda except exchange of weather reports. On Korea, he saw no hope of reaching an agreement on unification. Ditto for Indo-China; he stressed the fact that neither the U. S. nor South Vietnam were a party to the Geneva agreement of last year promising elections for a unified Indo-Chinese regime in 1956. The only place he wants unification is Germany; unless the Russians were prepared to surrender and accept American terms for a unified Reich, they would be demonstrating "insincerity."

Molotov seemed to feel that the Russians had sufficiently proven their "sincerity" in Austria and Yugoslavia; by accepting Western terms on conventional arms and by offering to lift the Iron Curtain to continuous international inspection. "Mr. Secretary," Mr. Dulles was asked, "Molotov said that the next step on disarmament was up to us now. Is it your present thought that the Allies will take some step on disarmament at Geneva. . . .?" Mr. Dulles replied (the rules require that his words be given in indirect discourse) that there will be no specifics discussed at Geneva. If no "specifics" are to be discussed, what will the heads of State do on that summit? The purpose, Mr. Dulles said in reply to another question, was (we use his words as closely as the rule allows) merely to set up procedures for arriving at results which we both find acceptable in principle! The exclamation point is ours.

Busy Closing Doors

The President was applauded at San Francisco for declaring that we would try any method, however novel, that holds out any hope for peace. His Secretary of State seems to be busy shutting off as many avenues as possible to a solution. One proposal has been to sweeten German rearmament with a non-aggression pact between Eastern and Western blocs; Mr. Dulles rejected that idea. Indeed any agreement whatsoever seemed to be ruled out by his remark on the danger of dealing with those whom you don't trust. He wants a rearmed and a reunited Germany allied with NATO, and he reluctantly recognizes that this is linked with the problem of disarmament, but he sees no possibility of arriving at an agreement on disarmament at Geneva because (again the indirect discourse) it is an extremely complicated subject and there are infinite varieties of formulae which might be applied. There are many permutations and combinations which would all have to be explored. . . . Though the latest NATO war games underscore the total deadliness of atomic war, this is not a man in a hurry for peace.

One Gospel Theme Dulles Avoids

The day before the San Francisco conference Mr. Dulles spoke at the "Festival of Faith" in his favorite religious strain, but one Gospel injunction which never appears in his unctuous homilies is "Blessed are the peacemakers." He belittled Krishna Menon at press conference. His great triumph at the UN gathering was to block a "Declaration of San Francisco" in which East and West would have made a new pledge of peace; the setting would have further relaxed tension. His own speech privately appalled our Canadian and West European friends; this was the same cracked cold war record the State Department has been playing since 1947. The Senate had defeated the McCarthy resolution two days earlier, but Dulles's was a speech tailored to its belligerent specifications. The President, if he is to succeed in his search for peace, must get himself a new Secretary of State. This one is McCarthy's.

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There's Many A Legal Slip Between the Schachtman Ruling and A Passport

The Right to Travel Is As Yet Only A Right to Litigate

Last Monday Walter Winchell breathlessly reported, "Paul Robeson, who now can get a passport (due to a High Court decision) will be refused entry into Britain and maybe France." Walter never took a longer leap to a less solid conclusion. The decision of the U. S. Court of Appeals in the Max Schachtman passport case did indeed hold for the first time, "The right to travel . . . is a natural right." But a careful reading will show that for most radicals and many liberals there may be many a slip between this judicial generality and the actual obtaining of a passport.

True, the State Department is taking a beating in the courts. The Schachtman case and the new District Court decision last week in the Clark Foreman case, on the heels of Otto Nathan's, have just about ended the simple absolutism long wielded over the right to travel by the Czarina Ruth Shipley and her successor the Czarina Frances Knight.

One-Sided Inquisitions

The Foreman decision, unless appealed, means the end of the practice whereby the Board of Passport Appeals stages one-sided inquisitions in the guise of hearings. The applicant is confronted only by bare allegations and must prove a negative, with no bill of particulars to help him and no witnesses to crosc-examine. Judge Matthews, relying on the Nathan case, ordered a "quasi-judicial . . . evidentiary hearing" for Foreman. The Department avoided a precedent a few weeks earlier by hastily giving Otto Nathan a passport. In the Foreman case it must either change its hearing procedure or take an appeal. Secretary Dulles at press conference last week indicated that hearing procedures would be revised. This is a David-and-Goliath victory over the State Department by the Emergency Civil Liberties Committee and its general counsel, Leonard Boudin, who represented both Nathan and Foreman.

The day is ending when the Department can deny a passport without a hearing. But the day is still a long way off when the right to travel will again be secure. The headlines did not do justice to the Appeals Court decision in the Schachtman case. "The right to travel," the Court said, ". . . is a natural right" but it added, "subject to the rights of others and to reasonable regulation under law." The Czarinas are deposed, but the courts take their place. The next question is what constitutes "reasonable regulation" and this will depend on the judges, and the climate of opinion. The right to travel will be at best for some time merely a right to litigate.

That Subversive List Not Enough

All the majority opinion by Judge Fahy really decided in the Schachtman case was that a man might not lawfully be denied a passport *solely* because the organization (in this case the Independent Socialist League) of which he is chairman has been listed as subversive by the Attorney General. There must be an *independent* determination by the State Department. What Schachtman gets is not a passport but a new hearing. When the State Department then decides "independently" that his group is "subversive," he must go back to court again and attack this finding as "arbitrary." The result will depend on the judges. In any case it will be a long time before Max Schachtman gets abroad again.

Schachtman was able to prove (1) that his organization was bitterly anti-Communist (and indeed as the box below shows had been used for anti-Communist propaganda abroad by the U. S. government), (2) that it was also anti-Trotzkyist, (3) that it had no international affiliations and (4) that it did not advocate overthrow of the government by force and violence. The State Department agreed finally that the Independent Socialist League was not Communist but still held it to be "subversive" on the basis of the Attorney General's list.

What Is "Subversive"?

If one can be anti-Communist and non-revolutionary and yet too "subversive" to be allowed to travel abroad, a lot of assorted radicals and liberals are in for trouble. Yet the Court of Appeals implies that denial of a passport may be valid if the Department can prove the Independent Socialist League "subversive."

Similar shadows are cast by the Foreman case. He is accused not only of having been a Communist (which he denied) but of belonging to various liberal and radical organizations which the State Department regards as "communistic" though not actually on the Attorney General's list. The question the courts must ultimately decide is whether, even if proven at a fair hearing, such vague political standards constitute "reasonable regulation" of the right to travel. That battle is still a long way off, and the Department still has many legal dodges it can use, not the least of which is indicated by an ominous footnote to the Schachtman decision, "No suggestion is made here that the basis for the denial may not be disclosed, for reasons of national security or otherwise."

How Shanghai and Canton Were "Bombed" With A Max Schachtman Leaflet

Good Enough for Propaganda, But Not for A Passport

This vivid bit of testimony, in the record submitted to the Court of Appeals in the Max Schachtman passport case, deserves to be recorded for the future historian. It is from the typescript of Schachtman's hearing November 3, 1953, before Ashley J. Nicholas, assistant chief of the State Department's passport division. The questioner is Schachtman's counsel, Joseph L. Rauh, Jr.

"Mr. RAUH. I think you told me some time ago of a situation in which the Independent Socialist League officially cooperated with the State Department in 1949. Could you mention that to Mr. Nicholas, please?

"Mr. SCHACHTMAN. I wouldn't say officially cooperated with the State Department—I know that a few years ago, almost exactly four years ago, October 17, 1949, the Socialist party, in the name of its secretary, Mr. Harry Fleischman; the secretary of the Social Democratic Federation in the United States, August Claessens, and myself, officially in my capacity as national chairman of the Independent Socialist League, issued a joint statement entitled "Stalinism Is Not Socialism." This was made up of a preamble, etc., which indicated what, despite the differences among the three of us, we held in common about Socialism and that it was in no respect related to Stalinism.

"We have excellent reason to believe that the State Department, whether on its own initiative or in any case with the knowledge and support, had this statement—of which I remind you we were one of the signers—translated into Chinese and dropped in something like 100,000 copies by bomber over Shanghai and Canton, some time between May 10 and May 15, 1950. I can't vouch for the accuracy of the translation—I am not familiar with Chinese. Here is a photostatic copy of the document."

The date given for the "bombing" was more than a month before the Korean war, and six months before Chinese intervention. What happens if such bombers, intruding unlawfully into the air over a country with which we are at peace, are shot down? The readiness of the government to use an American radical for counter-revolutionary purposes abroad while refusing him the right to travel is instructive. It indicates that while Stalinism may not be socialism contemporary "Americanism" as interpreted by the State Department is hardly a model free society, either.

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Humphrey and Stennis Give the GOP A Chance to Whitewash and Expand Thought Control

Dissipating Any Naive Illusions About That Coming Security Inquiry

The Republicans and the rightists joined last week in the unanimous voice vote for the Humphrey-Stennis joint resolution to investigate the security program because (1) they will control it, (2) the Hoover-style commission to make the study will have no power to examine the secret practices and the informer system of the FBI, and (3) the final result may serve only to fasten thought control more firmly onto the fabric of American life.

Of the 12 members, four will be named by Eisenhower, four by Nixon; this means that Brownell and J. Edgar Hoover will have an effective voice in choosing eight members. The Democrats will pick but four members through Speaker Sam Rayburn. Section 8 of the resolution provides that no agency of the government may be required to furnish information to the Commission when in the President's opinion such disclosure would interfere with or jeopardize intelligence or investigative functions. This follows from what Senator Humphrey called "the unquestionable necessity for protecting the FBI's methods *and devices* for infiltrating the Communist conspiracy." The italics are added; these "devices" include wire-tapping and mail covers.

No Real Right to Confront

In presenting the resolution to the Senate, Humphrey accepted the view that there should be no right to confront accusers when the source was a "genuine undercover agent"—though some of the most famous of these have turned out to be psychopathic liars, alcoholics or mercenaries. Humphrey said it was necessary to consider the problem "strictly in terms of casual informants." He did not advocate the right to confront but merely the need to *consider* it; the FBI will oppose this but since its stock in trade is the guarantee of secrecy when it interrogates neighbors and friends.

Senator Cotton (*R. N.H.*), who helped frame the final resolution, said the coming inquiry would not be "digging into this case or that case, or trying to find political ammunition in the treatment of individual cases." Cotton said "of course" the Commission could not study the security system "without knowing something of the individual cases" but he was sure the Commission could "proceed in such a manner that there will be no question of trying to get into its record information which, in the interest of future security, should not be divulged." Thus the inquiry itself is to be launched under wraps.

Built-In Conclusions

The resolution contains built-in conclusions. The most important is its declaration that a security system is "vital" for all persons privately or publicly employed on work requiring access to national defense secrets or affording "significant opportunity for injury to the national security." This could hardly be broader. The Commission is instructed to make reports on the adequacy of existing security laws. Thus the idea of a Commission, first broached last year as a device to sidetrack the Butler bill for nationwide industrial screening, may become a means for recommending such legislation.

This, and not some overnight conversation to liberalism, explains why Mundt (*R. S. Dak.*) rose to say that he was "unreservedly" a strong supporter "of this approach and this resolution." Mundt agreed with Cotton that any benefit of the doubt in security cases "should be given to the government and to those who are peaceful, honest, God-fearing and loyal, who live under the machinery of the administration of that government." To resolve the benefit of the doubt against accused persons has not until this generation been an accepted feature of American law.

Perpetual Surveillance

The co-sponsor of the Mundt-Nixon bill which later became the McCarran Internal Security Act of 1950, told the Senate it was wrong to believe that the security check was about over. "It will never be entirely completed," Mundt declared. "It is a continuing problem. It seems to me that we must always have machinery for checking those already on the job because individuals may change." Mundt said some persons came to the government loyal "but later switched to subversive attachments." So we are to have a system of perpetual surveillance. And if we are to detect early when an official is becoming "subversive" we must have an omnipresent network of political spies and secret informers to eavesdrop and peep.

Not a single Democrat other than the two sponsors, Humphrey and Stennis, rose to say a word in favor of the resolution during discussion of it in the Senate. A different leadership in a different atmosphere would never have permitted passage of the measure, which robs the Democratic party of what might have been a campaign issue in 1956. "Non-partisan" treatment will prove only a cover for a Republican whitewash.

The terms of the resolution provide that the Commission must be evenly divided between both parties. The least that influential liberal Democrats can do is to see that Sam Rayburn, in picking his two Democrats (and two Republicans), for the Commission appoints a few men with the insight and guts to file a strong minority report.

Mundt Abhors Concentration Camps

Discussion of the Humphrey-Stennis resolution gave Mundt a chance to twit the liberals of the Senate on the light-headed maneuvers they adopted in 1950 to uphold Truman's veto of the Internal Security Act. Led by Lehman they tried to substitute a bill to put all subversives in detention camps on the outbreak of war or national emergency.

Mundt said last week that "in the effort to secure sufficient votes to override a presidential veto . . . it was necessary to accept several amendments. . . . Some of these were amendments which I would have ordinarily opposed, such as the one . . . which provides for concentration camp punishment for certain individuals. I am one who abhors all types of concentration camps, but that provision is part of the law of the land. It represents part of the increasing need for study. . . ." Mundt did not say he favored repeal, however.

Ever Vigilant

The silliest testimony in the hearings on the Humphrey-Stennis resolution seems to have come from the State Department. Senator Humphrey told the Senate last week he saw "no convincing reason" why hearings should not be accorded applicants for government jobs who would otherwise be barred for security reasons. Usually hearings are only accorded those already employed.

"The only real argument against such hearings," Humphrey said, "was offered by the representative of the State Department who testified that if applicant procedures were adopted, one of the dangers would be immediately all the Communists would come in to apply for a Federal job just to find out whether the Federal government knew about them or not."

Humphrey said the State Department did not seem to realize that the Atomic Energy Commission has for several years accorded applicants a hearing. Presumably "all the Communists" have already been free to apply for jobs with the AEC to find out whether the government "knew about them."

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Now That Brownell Has Dropped The Charges Against Lattimore

A Pity McCarthy and Budenz Can't Be Tried for Perjury

If Owen Lattimore was not a perjurer, then Joe McCarthy and Louis Budenz are; it is a pity there is not some way to make the Senator and the FBI informant stand trial. It is also a pity there is no way to make the government pay damages when it puts a man to endless agony and heavy financial cost, then decides to drop the charges against him. The Department of Justice ought not to be allowed to engage in gambles of this kind at other people's expense. The perjury charge was an obvious phoney from the start; the government did not dare indict him for denying McCarthy's charge that he was the top No. 1 Soviet spy in America or Budenz's unwilling identification of Lattimore as a Communist under pressure from Robert Morris, then counsel for the McCarran committee.

Why did Brownell decide to drop the charge? For one thing he had just picked a Justice Department official, Warren E. Burger, to fill the vacancy on the Court of Appeals here. Had the government asked for a rehearing of the latest 4-4 decision, Burger would have had to disqualify himself. Though not in the Criminal Division, Burger helped map legal strategy in the Lattimore case. A second factor is that Simon Sobeloff, the Solicitor General, who refused to argue the *Peters* case in the Supreme Court, also had a low opinion of the Lattimore prosecution. Thirdly, chances of a successful appeal to the Supreme Court were slim. Finally, the Chief Justice is a powerful Republican and his general attitude toward the witch hunt may have had some influence. It is not hard to imagine someone saying at the White House, "When is Herb [Brownell] going to stop making a fool of himself in that Lattimore case?"

Salute to Youngdahl

The moral and phychological effect of the victory cannot be overestimated. It will strengthen resistance to the witch hunt; give teachers elsewhere more courage; strike another blow at the fading repute of all who ganged up at the China lobby's behest on Lattimore. The legal effect is to discourage investigating committees from carrying on idealogical inquisitions. A man's opinion of whether he follows Communist party line or not cannot be made the basis of a perjury indictment. The fight will not be over until Lattimore has been reinstated in his teaching job at Johns Hopkins; its president says that is up to the trustees, who meet in September. Justice will not have been done until he is teaching again. And for this victory a salute and thanks is due the Lutheran conscience of brave Judge Youngdahl and the devotion of Lattimore's lawyers: to Thurman Arnold, Senator O'Mahoney, Abe Fortas, Paul Porter and their associates. They had the honor to fight and win one of the historic battles for intellectual freedom in America.

New Red Thriller

The day after the Attorney General announced the Lattimore case was being dropped the same committee that tried to get Lattimore for perjury, the Internal Security Committee of the Senate, set off a new Red sensation. Robert Morris, now a municipal judge in New York, came down to watch his old committee put Winston Burdett of CBS on the stand as a friendly witness. Burdett told an exciting story of having become a Communist while on the *Brooklyn Eagle* and of going abroad as a Soviet spy to Finland, Iran and other countries before he broke with the party in 1942. In the course of his interrogation he volunteered the names of other newspapermen, including two now on the *New York Times*, whom he claims to have known as Communists.

The hearing was billed as a study of "Communist exploitation of the press." For several years, the Internal Security Committee and later the McCarthy committee have been promising a Red hunt into the American press. Budenz at the time of the first hearings in which Lattimore was mentioned promised a list of 200 "molders of opinion" who were you-know-what and Matusow was primed at one time to show that there were more Communists on the *New York Times* than the *Daily Worker*. Journalistic scuttle-butt rightly or wrongly gives William Randolph Hearst, Jr., credit for bringing pressure on McCarthy to put a stop to these shenanigans as a menace to the freedom and good name of the press. (A *Journal-American* man is among those named by Burdett.) But with Eastland in charge the situation seems to have gotten out of hand.

Since there is hardly a newspaper in America which does not have a Communist or ex-Communist somewhere on its staff, an inquiry of this kind could have wide repercussions. The danger to freedom of the press is obvious, but the weak response of the American Society of Newspaper Editors to McCarthy's attack on James Wechsler of the *New York Post* and the general silence of the press—Wechsler included—on the deportation of another McCarthy victim, Cedric Belfrage of the *National Guardian*, shows how little resistance there is among the editors. There is one obstacle, however, which may prove fatal; the public is bored with Reds. If Burdett, who confessed all to the FBI in 1951, and has been on ice since, had told his story in 1947, he like Whitaker Chambers might have skyrocketed to fame and fortune. The market is not what it used to be.

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